

A bill for an act

relating to economic development; providing for stimulation of the construction industry; streamlining and modifying conditions that apply to certain construction projects; providing an investment tax credit and a historic structure rehabilitation credit; authorizing green energy revenue bonds; permitting local assessments for energy improvements; appropriating money; amending Minnesota Statutes 2008, sections 16C.16, by adding a subdivision; 429.011, by adding subdivisions; 429.021, subdivision 1; 429.031, subdivision 3; 469.176, subdivision 2, by adding a subdivision; Minnesota Statutes 2009 Supplement, section 469.153, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 116J; 290; 469.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 16C.16, is amended by adding a subdivision to read:

Subd. 13. **Actions related to stimulus project.** This section applies to the construction of a stimulus project, as authorized in section 469.176, subdivision 8.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 2. **[116J.8737] SMALL BUSINESS INVESTMENT TAX CREDIT.**

Subdivision 1. **Definitions.** (a) For the purposes of this section, the following terms have the meanings given.

(b) "Qualified small business" means a business that satisfies all of the following conditions:

(1) the business has its headquarters in Minnesota;

(2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;

(3) the business is engaged in, or is committed to engage in, innovation in Minnesota in one of the following:

(i) using proprietary technology to add value to a product, process, or service in a qualified high-technology field;

(ii) researching or developing a proprietary product, process, or service in a qualified high-technology field;

(iii) researching, developing, or producing a new proprietary technology for use in the fields of tourism, forestry, mining, or transportation; or

(iv) qualified green manufacturing;

(4) other than the activities specifically listed in clause (3), the business is not engaged in real estate development, insurance, banking, lending, lobbying, political consulting, information technology consulting, wholesale or retail trade, leisure, hospitality, transportation, construction, ethanol production from corn, or professional services provided by attorneys, accountants, business consultants, physicians, or health care consultants;

(5) the business has fewer than 25 employees;

(6) if the business has five or more employees as measured on a full-time equivalent basis, the business must pay its employees, other than its first five employees, annual wages of at least 175 percent of the federal poverty guideline for the year for a family of four;

(7) the business has not been in operation for more than ten consecutive years;

(8) the business has not received more than \$4,000,000 in qualifying investments that have qualified for and received tax credits under this section;

(9) the business is not a member of a unitary group that employs more than 100 employees; and

(10) the business has not previously received private equity investments of more than \$2,000,000.

(c) "Qualified high-technology field" includes, but is not limited to, aerospace, agricultural processing, alternative energy, environmental engineering, food technology, cellulosic ethanol, information technology, materials science technology, nanotechnology, telecommunications, biotechnology, medical device products, pharmaceuticals, diagnostics, biologicals, and veterinary science.

(d) "Proprietary technology" means the technical innovations that are unique and legally owned or licensed by a business and includes, without limitation, those innovations that are patented, patent pending, a subject of trade secrets, or copyrighted.

(e) "Qualified green manufacturing" means a business whose primary business activity is production of products, processes, methods, technologies, or services, excluding consulting, intended to do one or more of the following:

(1) increase the use of energy from renewable sources, as defined in section 216B.1691;

(2) increase the energy efficiency of the electric utility-producing infrastructure system or to increase energy conservation related to electricity or other utility use, as provided in sections 216B.2401 and 216B.241;

(3) reduce greenhouse gas emissions, as defined in section 216H.01, subdivision 2, or to mitigate greenhouse gas emissions or other waste products through, but not limited to, carbon capture, storage, or sequestration;

(4) monitor, protect, restore, and preserve the quality of surface waters; and

(5) expand use of biofuels, including expanding the feasibility or reducing the cost of producing biofuels or the types of equipment, machinery, and vehicles that can use biofuels.

(f) "Qualified taxpayer" means an accredited investor, within the meaning of Regulation D of the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.501(a), who:

(1) does not own, control, or hold power to vote 20 percent or more of the outstanding securities of the qualified small business in which the eligible investment is proposed; or

(2) does not receive more than 50 percent of the taxpayer's gross annual income from the qualified small business in which the eligible investment is proposed.

A member of the family of a taxpayer disqualified by this subdivision is not eligible for a credit under this section.

(g)(1) "Qualified angel investment network fund" means a pooled investment fund that:

(i) invests in qualified small businesses;

(ii) is organized as a pass-through entity; and

(iii) has at least three separate investors, all of whom are qualified taxpayers as defined in paragraph (f), and that own no more than 50 percent of the outstanding ownership interests in the fund.

(2) For purposes of determining the number of investors and the ownership interest of an investor under this paragraph, the ownership interests of an investor include those of the investor's family, and any corporation, limited liability company, partnership, or trust in which the investor or the investor's family has a controlling equity interest or exercises

management control. Investments in the fund may consist of equity investments or notes that pay interest or other fixed amounts, or any combination of both.

(h) "Qualified investment" means either a cash investment of a minimum of:

(1) \$10,000 in a calendar year by a qualified taxpayer; or

(2) \$50,000 in a calendar year by a qualified angel investment network fund.

The qualified investment in a qualified small business must be in exchange for common stock, a partnership or membership interest, preferred stock, debt with mandatory conversion to equity, or an equivalent ownership interest as determined by the commissioner.

(i) "Family" means a family member within the meaning of the Internal Revenue Code, section 267(c)(4).

Subd. 2. **Certification of small businesses.** (a) Businesses may apply to the commissioner for certification as a qualified small business. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$150. The application for certification must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year. Application fees collected are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

(b) A business seeking certification must submit an application for each taxable year for which the business desires certification. If a qualified small business receives a qualified investment for which tax credits are allocated, the business must annually submit a certified small business report in the form required by the commissioner with the required fee no later than February 1 for the two years subsequent to the last qualified investment. Failure to file an annual report as required under this subdivision results in a fine of \$500 and revocation of certification.

(c) The commissioner must maintain a list of businesses certified under this subdivision and make the list accessible to the public on the department's Web site.

Subd. 3. **Certification of qualified taxpayers.** (a) Taxpayers may apply to the commissioner for certification as a qualified taxpayer. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$350. The application for certification of qualified taxpayers must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available on the department's Web site by November 1 of the preceding year. Application fees are appropriated to the commissioner for personnel and administrative expenses related to administering the program.

(b) A qualified taxpayer seeking certification must submit an application for each taxable year in which the qualified taxpayer seeks certification. If a qualified taxpayer receives tax credits under this section, a qualified taxpayer must submit an angel investor annual report in the form required by the commissioner with the required fee no later than February 1 of each year for two years subsequent to the last allocation of tax credits. Failure to file an angel investor annual report as required under this subdivision results in the revocation of tax credits. Once a qualified taxpayer has filed the required annual reports and accompanying fees for two subsequent years following allocation of tax credits and complied with all other requirements for that allocation, the tax credits are no longer subject to revocation.

Subd. 4. Certification of qualified angel investment network funds. (a) Angel investment network funds may apply to the commissioner of employment and economic development for certification as a qualified angel investment network fund. The application must be in the form and be made under the procedures specified by the commissioner, accompanied by an application fee of \$1,000. The application for certification of qualified angel investor network funds must be made available on the department's Web site by August 1, 2010. Applications for subsequent years' certification must be made available by November 1 of the preceding year. Application fees collected are appropriated to the commissioner to be used for personnel and administrative expenses related to administering the program.

(b) A qualified angel investment network fund seeking certification must submit an application for each taxable year for which the angel investment network fund seeks certification. If any member of a qualified angel investment network fund receives tax credits under this section for qualified investments made by the fund, the qualified angel investment network fund must annually submit an angel investor annual report in the form required by the commissioner with the required fee no later than February 1 of each year for two years subsequent to the last allocation of credits. Failure to file an angel investor annual report as required under this subdivision results in revocation of tax credits. Once a qualified angel investment network fund has filed the required annual reports and accompanying fees for two subsequent years following allocation of tax credits and complied with all other requirements for that allocation, the tax credits are no longer subject to revocation.

Subd. 5. Credit allowed. (a) A qualified taxpayer or angel investor network fund is allowed a credit in the amount determined by the certification allocated by the commissioner against the tax imposed by chapter 290. The commissioner must not allocate more than \$10,000,000 in credits to qualified taxpayers or angel investment network funds

for taxable years beginning after December 31, 2009, and before January 1, 2012, and must not allocate more than \$12,000,000 in credits per year for taxable years beginning after December 31, 2011. Any portion of a taxable year's credits that is not allocated by the commissioner does not cancel and may be carried forward to the subsequent taxable year until all credits have been allocated. Applications for tax investment credits must be made available on the department's Web site by September 1, 2010, and the department must begin accepting applications by September 1, 2010. Applications for subsequent years must be made available by November 1 of the preceding year.

(b) Tax investment credits must be allocated to qualified taxpayers or angel investor network funds in the order that the tax credit request applications are filed with the department. The investment specified in the application must be made within 60 days of the allocation of the credits. If the investment is not made within 60 days, the credits are deemed revoked. A qualified taxpayer or angel investor network fund that fails to invest as specified in the application, within 60 days from allocation of the credits, must notify the department of the failure to invest within five business days of the expiration of the 60-day investment period.

(c) All tax credit request applications filed with the department on the same day must be treated as having been filed contemporaneously. In the event that two or more qualified taxpayers or angel investment network funds file tax credit request applications on the same day, and the aggregate amount of credit allocation claims exceeds the aggregate limit of credit under this section or the lesser amount of credits that remain unallocated on that day, then the credits must be allocated among the qualified taxpayers or angel investment network funds who filed on that day on a pro rata basis with respect to the amounts claimed. The pro rata allocation for any one qualified taxpayer or angel investment network fund is the product obtained by multiplying a fraction, the numerator of which is the amount of the credit allocation claim filed on behalf of a qualified taxpayer and the denominator of which is the total of all credit allocation claims filed on behalf of all applicants on that day, by the amount of credits that remain unallocated on that day for the fiscal year.

(d) The commissioner must notify the commissioner of revenue of every credit allocated and every credit revoked under this section.

Subd. 6. Annual reports. (a) By February 1 of each year for two years subsequent to the last allocation of credits, certified small businesses, qualified taxpayers, and qualified angel investment network funds must submit an annual report and a filing fee of \$100. All report fees collected are appropriated to the commissioner for personnel and administrative expense related to administering the program.

(b) Certified businesses must certify to the department in the form required by the commissioner that it satisfies the following requirements:

- (1) the business has its headquarters in Minnesota;
- (2) at least 51 percent of the business's employees are employed in Minnesota, and 51 percent of the business's total payroll is paid or incurred in the state;
- (3) that the business is engaged in, or is committed to engage in, innovation in Minnesota as defined under subdivision 1; and
- (4) that the business meets the payroll requirements in subdivision 1, paragraph (b), clause (6).

(c) Certified taxpayers must certify to the department in the form required by the commissioner that the investor satisfies the following requirements:

- (1) the taxpayer continues to meet the requirements of subdivision 1, paragraph (f); and
- (2) that the taxpayer continues to remain invested in the qualified small business as required by section 290.0682, subdivision 3.

(d) Certified angel investment network funds must certify to the department in the form required by the commissioner that the investor satisfies the following requirements:

- (1) the taxpayer continues to meet the requirements of subdivision 1, paragraph (g); and
- (2) that the angel investment network fund continues to remain invested in the qualified small business as required by section 290.0682, subdivision 3.

Subd. 7. **Rulemaking.** The commissioner's actions in establishing procedures and requirements and in making determinations and certifications to administer this section are not a rule for purposes of chapter 14, are not subject to the Administrative Procedure Act contained in chapter 14, and are not subject to section 14.386.

Subd. 8. **Report.** Beginning in 2011, the commissioner must annually report by March 15 to the chairs of the committees having jurisdiction over taxes and economic development in the senate and the house of representatives on the tax credits issued under this section. The report must include:

- (1) the number and amount of the credits issued;
- (2) the recipients of the credits;
- (3) the number and type of each business certified as a qualified small business;
- (4) to the extent determinable, the total amount of investment generated by these credits; and
- (5) any other information relevant to evaluating the effect of these credits.

EFFECTIVE DATE. This section is effective for investments made after July 1, 2010, for taxable years beginning after December 31, 2009, and only applies to investments made after the qualified business and the qualified taxpayer or qualified angel investment network fund have been certified by the commissioner of employment and economic development.

Sec. 3. **[290.0681] CREDIT FOR HISTORIC STRUCTURE REHABILITATION.**

Subdivision 1. **Definitions.** (a) For purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Certified historic structure" means a property located in Minnesota and listed individually on the National Register of Historic Places or a historic property designated by either a certified local government or a heritage preservation commission created under the National Historic Preservation Act of 1966 and whose designation is approved by the state historic preservation officer.

(c) "Eligible property" means a certified historic structure or a structure in a certified historic district that is offered or used for residential or business purposes.

(d) "Structure in a certified historic district" means a structure located in Minnesota that is certified by the State Historic Preservation Office as contributing to the historic significance of a certified historic district listed on the National Register of Historic Places or a local district that has been certified by the United States Department of the Interior.

Subd. 2. **Credit allowed.** A taxpayer who incurs costs for the rehabilitation of eligible property may take a credit against the tax imposed under this chapter in an amount equal to 25 percent of the total costs of rehabilitation. Costs of rehabilitation include, but are not limited to, qualified rehabilitation expenditures as defined under section 47(c)(2)(A) of the Internal Revenue Code, provided that the costs of rehabilitation must exceed 50 percent of the total basis in the property at the time the rehabilitation activity begins and the rehabilitation must meet standards consistent with the standards of the Secretary of the Interior for rehabilitation as determined by the State Historic Preservation Office of the Minnesota Historical Society.

Subd. 3. **Carryback and carryforward.** If the amount of the credit under subdivision 2 exceeds the tax liability under this chapter for the year in which the cost is incurred, the amount that exceeds the tax liability may be carried back to any of the three preceding taxable years or carried forward to each of the ten taxable years succeeding the taxable year in which the expense was incurred. The entire amount of the credit must be carried to the earliest taxable year to which the amount may be carried. The unused portion of the credit must be carried to the following taxable year.

9.1 Subd. 4. **Partnerships; multiple owners; transfers.** (a) Credits granted to a
9.2 partnership, a limited liability company taxed as a partnership, or multiple owners of
9.3 property shall be passed through to the partners, members, or owners, respectively, pro
9.4 rata or pursuant to an executed agreement among the partners, members, or owners
9.5 documenting an alternate distribution method.

9.6 (b) Taxpayers eligible for credits may transfer, sell, or assign the credits in whole or
9.7 in part. Any assignee may use acquired credits to offset up to 100 percent of the taxes
9.8 otherwise imposed by this chapter. The assignee shall perfect a transfer by notifying the
9.9 Department of Revenue in writing within 30 calendar days following the effective date
9.10 of the transfer in a form and manner as prescribed by the Department of Revenue. The
9.11 proceeds of any sale or assignment of a credit is exempt from taxation under this chapter.

9.12 Subd. 5. **Process.** To claim the credit, the taxpayer must apply to the State Historic
9.13 Preservation Office of the Minnesota Historical Society before a historic rehabilitation
9.14 project begins. The State Historic Preservation Office shall determine the amount of
9.15 eligible rehabilitation costs and whether the rehabilitation meets the standards of the
9.16 United States Department of the Interior. The State Historic Preservation Office shall issue
9.17 certificates verifying eligibility for and the amount of credit. The taxpayer shall attach
9.18 the certificate to any income tax return on which the credit is claimed. The State Historic
9.19 Preservation Office of the Minnesota Historical Society may collect fees for applications
9.20 for the historic preservation tax credit. Fees shall be set at an amount that does not exceed
9.21 the costs of administering the tax credit program.

9.22 Subd. 6. **Mortgage certificates; credit for lending institutions.** (a) The taxpayer
9.23 may elect, in lieu of the credit otherwise allowed under this section, to receive a historic
9.24 rehabilitation mortgage credit certificate.

9.25 (b) For purposes of this subdivision, a historic rehabilitation mortgage credit is a
9.26 certificate that is issued to the taxpayer according to procedures prescribed by the State
9.27 Historic Preservation Office with respect to the certified rehabilitation and meets the
9.28 requirements of this paragraph. The face amount of the certificate must be equal to
9.29 the credit that would be allowable under subdivision 2 to the taxpayer with respect to
9.30 the rehabilitation. The certificate may only be transferred by the taxpayer to a lending
9.31 institution, including a nondepository home mortgage lending institution, in connection
9.32 with a loan:

9.33 (1) that is secured by the building with respect to which the credit is issued; and

9.34 (2) the proceeds of which may not be used for any purpose other than the acquisition
9.35 or rehabilitation of the building.

(c) In exchange for the certificate, the lending institution must provide to the taxpayer an amount equal to the face amount of the certificate discounted by the amount by which the federal income tax liability of the lending institution is increased due to its use of the certificate in the manner provided in this section. That amount must be applied, as directed by the taxpayer, in whole or in part, to reduce:

(1) the principal amount of the loan;

(2) the rate of interest on the loan; or

(3) the taxpayer's cost of purchasing the building, but only in the case of a qualified historic home that is located in a poverty-impacted area as designated by the State Historic Preservation Office.

(d) The lending institution may take as a credit against the tax due under this chapter an amount equal to the amount specified in the certificate. If the amount of the discount retained by the lender exceeds the amount by which the lending institution's federal income tax liability is increased due to the use of a mortgage credit certificate, the excess shall be refunded to the borrower with interest at the rate prescribed by the State Historic Preservation Office. The lending institution may carry forward all unused credits under this subdivision until exhausted. Nothing in this subdivision requires a lending institution to accept a historic rehabilitation certificate from any person.

EFFECTIVE DATE. This section is effective for taxable years beginning after December 31, 2009.

Sec. 4. **[290.0682] SMALL BUSINESS INVESTMENT CREDIT; CREDIT ALLOWED; LIMITATIONS; HOLDING PERIOD; AND CARRYOVER.**

Subdivision 1. Credit allowed. A qualified taxpayer is allowed a credit against the tax imposed under this chapter for investments made in the year in a qualified small business as defined under section 116J.8737. The credit equals 25 percent of the qualified taxpayer's investment in the business, but not to exceed the lesser of:

(1) the liability for tax under this chapter, including the applicable alternative minimum tax, but excluding the minimum fee under section 290.0922; and

(2) the amount of the certificate provided to the qualified taxpayer under section 116J.8737.

Subd. 2. Limitations. No taxpayer may receive more than \$125,000 in credits under this section in any one year.

Subd. 3. Holding period. The credit is allowed only for investments made after the qualified taxpayer or qualified angel investment network fund has been certified by the commissioner of employment and economic development under section 116J.8737.

11.1 Any credit taken by a taxpayer must be repaid, and any unused credits must be canceled,
11.2 if the investment in the qualified small business is not held for at least three years. The
11.3 three-year holding period does not apply if:

11.4 (1) the investment by the qualified taxpayer becomes worthless before the end
11.5 of the three-year period;

11.6 (2) 80 percent or more of the assets of the qualified small business is sold before
11.7 the end of the three-year period;

11.8 (3) the qualified small business is sold before the end of the three-year period; or

11.9 (4) the qualified small business's common stock begins trading on a public exchange
11.10 before the end of the three-year period.

11.11 Subd. 4. **Proportional credits.** Each pass-through entity must provide each
11.12 investor a statement indicating the investor's share of the credit amount certified to the
11.13 pass-through entity based on its share of the pass-through entity's assets at the time of
11.14 the qualified investment.

11.15 Subd. 5. **Carryover.** If the amount of the credit under this subdivision for any
11.16 taxable year exceeds the liability for tax, the excess is a credit carryover to each of the ten
11.17 succeeding taxable years. The entire amount of the excess unused credit for the taxable
11.18 year must be carried first to the earliest of the taxable years to which the credit may be
11.19 carried. The amount of the unused credit that may be added under this subdivision may
11.20 not exceed the taxpayer's liability for tax less the credit for the taxable year.

11.21 Subd. 6. **Transfer of credits.** Any taxpayer who has not had liability under this
11.22 chapter for the immediate past three taxable years and does not have anticipated liability
11.23 for the current taxable year may transfer the entirety of the credit to any natural person of
11.24 net worth, as defined in the Code of Federal Regulations, title 17, section 230.501(a). No
11.25 person is entitled to a refund for the interest created under this subdivision. Only the full
11.26 credit for any one taxpayer may be transferred and the interest may be transferred only one
11.27 time. A credit acquired by transfer is subject to the limitations prescribed in this section.
11.28 Documentation of any credit acquired by transfer must be provided by the taxpayer in
11.29 the form required by the commissioner.

11.30 Subd. 7. **Audit powers.** Notwithstanding the certification eligibility issued by the
11.31 commissioner of employment and economic development under section 116J.8737, the
11.32 commissioner may utilize any audit and examination powers under chapter 270C or 289A
11.33 to the extent necessary to verify that the taxpayer is eligible for the credit and to assess for
11.34 the amount of any improperly claimed credit.

11.35 **EFFECTIVE DATE.** This section is effective for investments made after July
11.36 1, 2010, for taxable years beginning after December 31, 2009, and only applies to

12.1 investments made after the qualified taxpayer has been certified by the commissioner of
12.2 employment and economic development.

12.3 Sec. 5. Minnesota Statutes 2008, section 429.011, is amended by adding a subdivision
12.4 to read:

12.5 Subd. 2c. **Municipality, energy conservation improvements.** For purposes
12.6 of construction, improvement, alteration, and reconstruction of an on-site energy
12.7 conservation system, a municipality may provide the improvements through and impose
12.8 special assessments upon the request of a port authority, economic development authority,
12.9 industrial development authority, or housing and redevelopment authority.

12.10 Sec. 6. Minnesota Statutes 2008, section 429.011, is amended by adding a subdivision
12.11 to read:

12.12 Subd. 17. **On-site energy conservation improvements.** "On-site energy
12.13 conservation improvements" mean any type of active or passive improvement, including
12.14 insulation; windows or doors; heating, cooling, or other building systems; lighting
12.15 systems; energy-related process or manufacturing changes; energy demand monitoring
12.16 and regulation equipment; and any other type of device, improvement, or equipment
12.17 installed in a building for the primary purpose of reduction in the use of energy in the
12.18 building, whether the devices, equipment, or improvements so installed are publicly
12.19 or privately owned.

12.20 Sec. 7. Minnesota Statutes 2008, section 429.021, subdivision 1, is amended to read:

12.21 Subdivision 1. **Improvements authorized.** The council of a municipality shall have
12.22 power to make the following improvements:

12.23 (1) To acquire, open, and widen any street, and to improve the same by constructing,
12.24 reconstructing, and maintaining sidewalks, pavement, gutters, curbs, and vehicle parking
12.25 strips of any material, or by grading, graveling, oiling, or otherwise improving the same,
12.26 including the beautification thereof and including storm sewers or other street drainage
12.27 and connections from sewer, water, or similar mains to curb lines.

12.28 (2) To acquire, develop, construct, reconstruct, extend, and maintain storm and
12.29 sanitary sewers and systems, including outlets, holding areas and ponds, treatment plants,
12.30 pumps, lift stations, service connections, and other appurtenances of a sewer system,
12.31 within and without the corporate limits.

12.32 (3) To construct, reconstruct, extend, and maintain steam heating mains.

13.1 (4) To install, replace, extend, and maintain street lights and street lighting systems
13.2 and special lighting systems.

13.3 (5) To acquire, improve, construct, reconstruct, extend, and maintain water works
13.4 systems, including mains, valves, hydrants, service connections, wells, pumps, reservoirs,
13.5 tanks, treatment plants, and other appurtenances of a water works system, within and
13.6 without the corporate limits.

13.7 (6) To acquire, improve and equip parks, open space areas, playgrounds, and
13.8 recreational facilities within or without the corporate limits.

13.9 (7) To plant trees on streets and provide for their trimming, care, and removal.

13.10 (8) To abate nuisances and to drain swamps, marshes, and ponds on public or private
13.11 property and to fill the same.

13.12 (9) To construct, reconstruct, extend, and maintain dikes and other flood control
13.13 works.

13.14 (10) To construct, reconstruct, extend, and maintain retaining walls and area walls.

13.15 (11) To acquire, construct, reconstruct, improve, alter, extend, operate, maintain, and
13.16 promote a pedestrian skyway system. Such improvement may be made upon a petition
13.17 pursuant to section 429.031, subdivision 3.

13.18 (12) To acquire, construct, reconstruct, extend, operate, maintain, and promote
13.19 underground pedestrian concourses.

13.20 (13) To acquire, construct, improve, alter, extend, operate, maintain, and promote
13.21 public malls, plazas or courtyards.

13.22 (14) To construct, reconstruct, extend, and maintain district heating systems.

13.23 (15) To construct, reconstruct, alter, extend, operate, maintain, and promote fire
13.24 protection systems in existing buildings, but only upon a petition pursuant to section
13.25 429.031, subdivision 3.

13.26 (16) To acquire, construct, reconstruct, improve, alter, extend, and maintain highway
13.27 sound barriers.

13.28 (17) To improve, construct, reconstruct, extend, and maintain gas and electric
13.29 distribution facilities owned by a municipal gas or electric utility.

13.30 (18) To purchase, install, and maintain signs, posts, and other markers for addressing
13.31 related to the operation of enhanced 911 telephone service.

13.32 (19) To improve, construct, extend, and maintain facilities for Internet access and
13.33 other communications purposes, if the council finds that:

13.34 (i) the facilities are necessary to make available Internet access or other
13.35 communications services that are not and will not be available through other providers or
13.36 the private market in the reasonably foreseeable future; and

(ii) the service to be provided by the facilities will not compete with service provided by private entities.

(20) To assess affected property owners for all or a portion of the costs agreed to with an electric utility, telecommunications carrier, or cable system operator to bury or alter a new or existing distribution system within the public right-of-way that exceeds the utility's design and construction standards, or those set by law, tariff, or franchise, but only upon petition under section 429.031, subdivision 3.

(21) To construct, reconstruct, improve, alter, and maintain on-site energy conservation improvements in existing buildings, but only upon a petition under section 429.031, subdivision 3. The activities under this clause may also be undertaken by a port authority, economic development authority, industrial development authority, or housing and redevelopment authority, and the municipality may act on the request of those entities in imposing special assessments.

Sec. 8. Minnesota Statutes 2008, section 429.031, subdivision 3, is amended to read:

Subd. 3. **Petition by all owners.** Whenever all owners of real property abutting upon any street named as the location of any improvement shall petition the council to construct the improvement and to assess the entire cost against their property, the council may, without a public hearing, adopt a resolution determining such fact and ordering the improvement. The validity of the resolution shall not be questioned by any taxpayer or property owner or the municipality unless an action for that purpose is commenced within 30 days after adoption of the resolution as provided in section 429.036. Nothing herein prevents any property owner from questioning the amount or validity of the special assessment against the owner's property pursuant to section 429.081. In the case of a petition for the municipality to own and install a fire protection system, a pedestrian skyway system, on-site energy conservation improvements, or on-site water contaminant improvements, the petition must contain or be accompanied by an undertaking satisfactory to the city by the petitioner that the petitioner will grant the municipality the necessary property interest in the building to permit the city to enter upon the property and the building to construct, maintain, and operate the fire protection system, pedestrian skyway system, on-site energy conservation improvements, or on-site water contaminant improvements. In the case of a petition for the installation of a privately owned fire protection system, a privately owned pedestrian skyway system, privately owned on-site energy conservation improvements, or privately owned on-site water contaminant improvements, the petition shall contain the plans and specifications for the improvement, the estimated cost of the improvement and a statement indicating

whether the city or the owner will contract for the construction of the improvement. If the owner is contracting for the construction of the improvement, the city shall not approve the petition until it has reviewed and approved the plans, specifications, and cost estimates contained in the petition. The construction cost financed under section 429.091 shall not exceed the amount of the cost estimate contained in the petition. In the case of a petition for the installation of a fire protection system, a pedestrian skyway system, on-site energy conservation improvements, or on-site water contaminant improvements, the petitioner may request abandonment of the improvement at any time after it has been ordered pursuant to subdivision 1 and before contracts have been awarded for the construction of the improvement under section 429.041, subdivision 2. If such a request is received, the city council shall abandon the proceedings but in such case the petitioner shall reimburse the city for any and all expenses incurred by the city in connection with the improvement.

Sec. 9. Minnesota Statutes 2009 Supplement, section 469.153, subdivision 2, is amended to read:

Subd. 2. **Project.** (a) "Project" means (1) any properties, real or personal, used or useful in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in generating, transmitting, or distributing electricity, assembling, fabricating, manufacturing, mixing, processing, storing, warehousing, or distributing any products of agriculture, forestry, mining, or manufacture, or in research and development activity in this field, or in the manufacturing, creation, or production of intangible property, including any patent, copyright, formula, process, design, know-how, format, or other similar item; (2) any properties, real or personal, used or useful in the abatement or control of noise, air, or water pollution, or in the disposal of solid wastes, in connection with a revenue producing enterprise, or any combination of two or more such enterprises engaged or to be engaged in any business or industry; (3) any properties, real or personal, used or useful in connection with the business of telephonic communications, conducted or to be conducted by a telephone company, including toll lines, poles, cables, switching, and other electronic equipment and administrative, data processing, garage, and research and development facilities; (4) any properties, real or personal, used or useful in connection with a district heating system, consisting of the use of one or more energy conversion facilities to produce hot water or steam for distribution to homes and businesses, including cogeneration facilities, distribution lines, service facilities, and retrofit facilities for modifying the user's heating or water system to use the heat energy converted from the steam or hot water.

16.1 (b) "Project" also includes any properties, real or personal, used or useful in
16.2 connection with a revenue producing enterprise, or any combination of two or more
16.3 such enterprises engaged in any business.

16.4 (c) "Project" also includes any properties, real or personal, used or useful for the
16.5 promotion of tourism in the state. Properties may include hotels, motels, lodges, resorts,
16.6 recreational facilities of the type that may be acquired under section 471.191, and related
16.7 facilities.

16.8 (d) "Project" also includes any properties, real or personal, used or useful in
16.9 connection with a revenue producing enterprise, whether or not operated for profit,
16.10 engaged in providing health care services, including hospitals, nursing homes, and related
16.11 medical facilities.

16.12 (e) "Project" does not include any property to be sold or to be affixed to or consumed
16.13 in the production of property for sale, and does not include any housing facility to be
16.14 rented or used as a permanent residence.

16.15 (f) "Project" also means the activities of any revenue producing enterprise involving
16.16 the construction, fabrication, sale, or leasing of equipment or products to be used in
16.17 gathering, processing, generating, transmitting, or distributing solar, wind, geothermal,
16.18 biomass, agricultural or forestry energy crops, or other alternative energy sources for
16.19 use by any person or any residential, commercial, industrial, or governmental entity in
16.20 heating, cooling, or otherwise providing energy for a facility owned or operated by that
16.21 person or entity.

16.22 (g) "Project" also includes any properties, real or personal, used or useful in
16.23 connection with a county jail, county regional jail, community corrections facilities
16.24 authorized by chapter 401, or other law enforcement facilities, the plans for which are
16.25 approved by the commissioner of corrections; provided that the provisions of section
16.26 469.155, subdivisions 7 and 13, do not apply to those projects.

16.27 (h) "Project" also includes any real properties used or useful in furtherance of the
16.28 purpose and policy of section 469.141.

16.29 (i) "Project" also includes related facilities as defined by section 471A.02,
16.30 subdivision 11.

16.31 (j) "Project" also includes an undertaking to purchase the obligations of local
16.32 governments located in whole or in part within the boundaries of the municipality that are
16.33 issued or to be issued for public purposes.

16.34 (k) "Project" also includes any properties designated as a qualified green building
16.35 and sustainable design project under section 469.1655.

Sec. 10. **[469.1655] QUALIFIED GREEN BUILDING AND SUSTAINABLE DESIGN PROJECTS.**

Subdivision 1. Project designation and eligibility. (a) A municipality or redevelopment agency issuing revenue bonds under sections 469.152 to 469.165 may designate the project for which the bonds are issued as a qualified green building and sustainable design project as provided in this section.

(b) The issuer must ensure that each designated project substantially:

(1) reduces consumption of electricity compared to conventional construction;

(2) reduces daily carbon dioxide emissions compared to energy generated from coal;

(3) increases the use of solar photovoltaic cells in this state; or

(4) increases the use of fuel cells to generate energy.

(c) Before designating a project under this section, the issuer must document in writing that the project will satisfy the eligibility criteria in this section.

(d) At least 75 percent of the square footage of commercial buildings that are part of the project must be registered with a recognized green building rating system, including Minnesota's sustainable building guidelines or the United States Green Building Council's Leadership in Energy and Environmental Design (LEED) certification, or in the case of residential buildings, Minnesota GreenStar rating, and must be reasonably expected to receive the certification.

Subd. 2. Applications. An application for designation under this section must include a project proposal that describes the energy-efficiency, renewable energy, and sustainable design features of the project and demonstrates that the project satisfies the eligibility criteria in this section. The application must include a description of:

(1) the amount of electric consumption reduced as compared to conventional construction;

(2) the amount of carbon dioxide daily emissions reduced compared to energy generated from coal;

(3) the amount of the gross installed capacity of the project's solar photovoltaic capacity measured in megawatts; and

(4) the amount in megawatts of the project's energy generated by fuel cells.

Subd. 3. Use of bond financing. The project proposal must include a description of the bond financing that will be allocated for financing of one or more of the following:

(1) the purchase, construction, integration, or other use of energy-efficiency, renewable energy, and sustainable design features of the project; or

(2) compliance with certification standards cited under subdivision 1, paragraph (d).

EFFECTIVE DATE. This section is effective for bonds issued after June 30, 2010.

Sec. 11. Minnesota Statutes 2008, section 469.176, subdivision 2, is amended to read:

Subd. 2. **Excess increments.** (a) The authority shall annually determine the amount of excess increments for a district, if any. This determination must be based on the tax increment financing plan in effect on December 31 of the year and the increments and other revenues received as of December 31 of the year. The authority must spend or return the excess increments under paragraph (c) within nine months after the end of the year.

(b) For purposes of this subdivision, "excess increments" equals the excess of:

(1) total increments collected from the district since its certification, reduced by any excess increments paid under paragraph (c), clause (4), for a prior year, over

(2) the total costs authorized by the tax increment financing plan to be paid with increments from the district, reduced, but not below zero, by the sum of:

(i) the amounts of those authorized costs that have been paid from sources other than tax increments from the district;

(ii) revenues, other than tax increments from the district, that are dedicated for or otherwise required to be used to pay those authorized costs and that the authority has received and that are not included in item (i);

(iii) the amount of principal and interest obligations due on outstanding bonds after December 31 of the year and not prepaid under paragraph (c) in a prior year; and

(iv) increased by the sum of the transfers of increments made under section 469.1763, subdivision 6, to reduce deficits in other districts made by December 31 of the year.

(c) The authority shall use excess increment only to do one or more of the following:

(1) prepay any outstanding bonds;

(2) discharge the pledge of tax increment for any outstanding bonds;

(3) pay into an escrow account dedicated to the payment of any outstanding bonds; ~~or~~

(4) pay or reimburse eligible project costs for a stimulus project certified by the authority as defined in section 469.176, subdivision 8, paragraph (b); or

(5) return the excess amount to the county auditor who shall distribute the excess amount to the city or town, county, and school district in which the tax increment financing district is located in direct proportion to their respective local tax rates.

(d) For purposes of a district for which the request for certification was made prior to August 1, 1979, excess increments equal the amount of increments on hand on December 31, less the principal and interest obligations due on outstanding bonds or advances, qualifying under subdivision 1c, clauses (1), (2), (4), and (5), after December 31 of the year and not prepaid under paragraph (c).

(e) The county auditor must report to the commissioner of education the amount of any excess tax increment distributed to a school district within 30 days of the distribution.

(f) For purposes of this subdivision, "outstanding bonds" means bonds which are secured by increments from the district.

(g) The state auditor may exempt an authority from reporting the amounts calculated under this subdivision for a calendar year, if the authority certifies to the auditor in its report that the total amount authorized by the tax increment plan to be paid with increments from the district exceeds the sum of the total increments collected for the district for all years by 20 percent.

Sec. 12. Minnesota Statutes 2008, section 469.176, is amended by adding a subdivision to read:

Subd. 8. Economic stimulus projects. (a) In connection with a stimulus project, the authority may extend by ten years the duration limits in subdivision 1b, paragraph (a), for any district for which the request for certification was made after June 30, 2010, and before January 1, 2012, to pay expenditures relating to a stimulus project located within the district. Permitted expenditures in economic development districts include office facilities during the duration of the economic stimulus project. The authority may reallocate excess funds from existing tax increment districts in connection with a stimulus project outside of the boundaries of the district between June 30, 2010, and before January 1, 2012.

(b) A "stimulus project" means any capital project, the construction of which commences after June 30, 2010, and before January 1, 2012, determined to create or retain jobs in the state, including construction jobs, by the governing body of the municipality in which the project is located.

Sec. 13. **EXTENSION OF CERTAIN ECONOMIC DEVELOPMENT-RELATED PERMITS.**

Notwithstanding any law, rule, or local ordinance or regulation to the contrary, the expiration date of a permit for an economic development project or subdivision approved under Minnesota Statutes, section 326B.121, subdivision 2, or sections 462.351 to 462.364, that has not expired before the effective date of this section is extended for one year beyond its original expiration date. The permit grantee shall notify the grantor in writing of the status of the economic development project or subdivision approved every 90 days from the effective date and no less than 90 days in advance of initiation of construction.

EFFECTIVE DATE. This section is effective the day following final enactment.